

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED

MAR 29 2019

Matthew Thibault
CLERK

JORGE VASQUEZ HERRERA,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

1:19-CV-01005-CBK

ORDER

Petitioner filed a motion for reduction of sentence pursuant to the First Step Act of 2018 amendments to 18 U.S.C. § 3582(c), Pub. L. No. 115-391 (December 18, 2018). A fair reading of petitioner's request for relief is that he is seeking relief under the amendments set forth in Title VI, Section 603 of the First Step Act. Pursuant to such amendments, the sentencing court may modify a term of imprisonment for extraordinary and compelling reasons, taking into account the factors set forth in 18 U.S.C. § 3553(a), upon motion of the defendant "after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier." 18 U.S.C. § 3582(c)(1)(A)(i). Petitioner contends that he is entitled to a reduction in sentence because he is not eligible for the prelease custody provisions of 18 U.S.C. 3624(c)(2), including placement in home-confinement as authorized by Title VI, Section 602 of the First Step Act.


Petitioner has set forth that he is not eligible for pre-release placement in a half-way house or in home-confinement because he is a deportable alien. He has not alleged that he has in fact been denied such placement by the Bureau of Prisons. Further, petitioner has failed to set forth that he has exhausted all administrative remedies available to him. His petition does not show whether he made any request to the warden and, if so, whether he appealed the denial of such a request.

Now, therefore,

IT IS ORDERED that petitioner shall, on or before May 1, 2019, supplement his petition for a writ of habeas corpus to set forth what steps, if any, he took to exhaust his administrative remedies.

DATED this 25th day of March, 2019.

BY THE COURT:

A handwritten signature in cursive script, reading "Charles B. Kornmann", written over a horizontal line.

CHARLES B. KORNMANN
United States District Judge